

REMARKS

The specification has been amended to make editorial changes therein, bearing in mind the criticisms in the Official Action. Reconsideration and withdrawal of the objections to the specification are respectfully requested.

Claims 2, 8, 13, 19, 23-31, 33 and the second claim 22 have been canceled.

Claims 1-33 were rejected under 35 U.S.C. 101 and have been amended or canceled. Amended claims 1-22 provide that the system performance prediction model presents a system performance prediction. The presentation of this result provides a useful result that avoids the rejection. One of skill in the art will recognize that presentation of the system performance prediction is inherent in a system performance prediction model and this feature need not be explicitly recited in the application as filed.

Claims 1, 5, 7, 11-12, 16, 18, 22-23, 27, 29, and 33 were rejected as anticipated by YANG et al. 6,542,854. Claims 1 and 12 have been amended to include the subject matter of claims 2 and 13, respectively, and reconsideration and withdrawal of the rejection are respectfully requested.

Claims 2-4, 6, 8-10, 13-15, 17, 19-21, 24-26, 28, and 30-32 were rejected as unpatentable over YANG et al. in view of LEVY et al. 6,145,121 and KUZARA et al. 5,450,586.

Reconsideration and withdrawal of the rejection are respectfully requested.

The Official Action indicates that one of skill in the art would combine LEVY et al. and KUZARA et al. with YANG et al. to provide a method of optimally tuning a system and to provide a means of benefiting software design teams. However, while these may be laudable goals for almost any design engineer, they do not explain why one of skill in the art would take the specific steps of claims 2 and 13 to achieve these goals. There must be something of record that would lead the artisan to add these specific improvements, and not just generalized goals that would apply to almost any improvement.

For example, what is the relationship between analyzing an event trace as set forth in claims 2 and 13 and the general goals set forth in the Official Action? Why would the artisan see the event trace analysis as a way to achieve these goals? The only tie seems to be based on impermissible hindsight application of that which is only taught by the present inventor.

Accordingly, it is believed that the amended claims avoid the rejections under §102 and §103.

In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A handwritten signature in dark ink, appearing to read "Thomas W. Perkins", is written over a horizontal line.

Thomas W. Perkins, Reg. No. 33,027
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573

TWP/lk

Appendix

The Appendix includes the following items:

- a substitute specification
- a marked-up version of the specification